IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 20TH AUGUST 2007 / 29TH SRAVANA 1929

Bail Appl..No. 5062 of 2007()

CMP.6101/2007 of J.M.F.C.,KATTAKADA

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CRIME NO.134/2007 OF NEYYARDAM POLICE STATION

PETITIONER/ 1ST ACCUSED(PARTY IN CUSTODY)

JIBAD KHAN, S/O.ABDUL KARIM,
KHANS MANZIL, KALLAMBALAM,
NAVAIKKULAM VILLAGE,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.SREEKUMAR

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR ADV.SRI.S.U.NAZER

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ALONG WITH B.A.NO.5065 OF 2007 ON 20/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

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B.A.Nos.5062 & 5065 of 2007

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Dated this the 20th day of August, 2007

ORDER

Applications for regular bail. The petitioner is the first accused in two crimes, one registered under Sec.420 IPC and another registered under Sec.304 IPC. The crux of the allegations against the petitioner is that he who does not have the requisite competence to practice as a medical practitioner in Kerala, falsely held himself act to be a qualified medical practitioner and practised allopathy. One such patient who was treated by him expired allegedly because of the incompetency of the petitioner to treat such patient. The petitioner was arrested and he continues in custody from 25.07.07. Investigation is in progress.

2. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. It is prayed that the petitioner may now be released on bail.

3. The learned Public Prosecutor vehemently opposes the application. The learned Public Prosecutor submits that the petitioner is guilty of the offence of cheating under Sec.420 IPC. Members of the public were made to believe that the petitioner is competent to practice allopathy and prescribe allopathic medicines and they were induced to go to him for treatment. The learned counsel for the petitioner contents that at worst, the petitioner can be held guilty for

not having the requisite registration. His competence to render medical aid to persons who come to him is not affected thereby. I find no merit in the contention raised by the petitioner. This is a case where the petitioner transparently held himself act to be a person competent to undertake allopathic practice. He did not have the requisite competency. Making false statements, he induced people to believe the that he has requisite qualifications and to come to him seeking medical advice or treatment.

4. I find merit in the opposition by the learned Public Prosecutor. I take note of the contention of the learned Public Prosecutor against the petitioner, that there was an earlier crime also registered on identical allegations.

5. I am not persuaded to grant regular bail to the petitioner at this early stage. Investigators in a serious crime like this are certainly entitled to further time to complete the investigation.

6. In the result, this petition is dismissed. However, I may hasten to observe that the petitioner shall be at liberty to move this court or the Sessions court for bail again at a later stage of the investigation not, at any rate, prior to 30/08/2007. The police shall, in the meantime, make every endeavour to complete the investigation.

(R.BASANT, JUDGE)

sj